

AUSTIN-BERGSTROM INTERNATIONAL AIRPORT
ELEVATOR & ESCALATOR PROJECT
PUBLIC HEALTH AND SAFETY PURCHASING AFFIDAVIT

STATE OF TEXAS }
 }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, personally appeared Jim Smith, who being by me first duly sworn, upon oath deposed and stated: “My name is Jim Smith. I am the Executive Director of the City of Austin’s Austin-Bergstrom International Airport (“ABIA”). I am over eighteen (18) years of age and I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

The City of Austin’s Department of Aviation operates the ABIA, which serves as a national air transportation hub, providing essential transportation services to citizens of Austin and members of the traveling public. In doing so, the City is responsible for the protection and preservation of the health, safety, and security of literally hundreds of thousands of citizens of the City and members of the traveling public.

The ABIA passenger terminal building operates as a unified system to efficiently, expeditiously, safely, and securely move the traveling public and their baggage through ticketing, airport security, the concourse area, and baggage claim. The safety and security of ABIA requires the Department of Aviation to prepare an emergency response preparedness plan, which includes the ability to expeditiously, efficiently, and safely evacuate all areas of the terminal. In addition, the terminal building is a public accommodation subject to the requirements of the Americans with Disabilities Act and the Texas Accessibility Standards, and it must be accessible to members of the public with disabilities.

In 2004, the Department of Aviation determined that the terminal’s elevators and escalators needed to be replaced and/or improved due to a history of system failures and safety related concerns, including a documented history of accidents and injuries. The City contracted with the Aguirre Corporation for architectural and engineering services for the ABIA Elevator and Escalator Improvements Project (the “Project”). The City issued an invitation for bids for the Project and a construction contract was awarded to Stewart-Matl, Ltd.

On August 18, 2006, with the Project only partially completed, the City terminated its contract with Stewart-Matl, Ltd. Several of the elevator and escalator improvements are temporarily inoperative. There is an immediate need to have the remaining work performed by a replacement general contractor.

The City must complete the Project in order to preserve or protect the public health or safety of the City's residents and the traveling public. Until the Project is completed, the City will be faced with a continuing probability of system failures and safety related concerns. Until the Project is completed, the ability of Airport Operations to implement an emergency response preparedness plan and to safely, expeditiously, and efficiently evacuate the terminal may be compromised. In addition, until the Project is completed, the terminal building may not provide a reasonably accessible route for handicapped persons to travel from the concourse level to the baggage claim area. In the event of a partial system failure, handicapped persons may have to leave the terminal at the concourse level, cross the access road, enter the parking garage to access a working elevator, cross the lower access road, and then re-enter the terminal at the baggage claim area.

The situation described above requires immediate action to complete the remaining work on an expedited basis in order to preserve or protect the public health or safety of the traveling public and the City's residents. It is essential for the City to enter contracts on an expedited basis to complete the work in order to preserve or protect the public health or safety of the traveling public and the City's residents. Additional funding in excess of the amount of the remaining balance of the original contract may be needed to complete the construction and preserve or protect the public health or safety, which may require a budget amendment.

The elevator and escalator subcontractor/supplier has already manufactured and delivered a portion of the replacement elevator and escalator units and is in the process of manufacturing and delivering the remaining units. The Department of Aviation is satisfied that the quality of the new elevator and escalator units meets the applicable specifications and will adequately preserve or protect the health or safety of the City's residents and the traveling public. To insure consistency in the installation, maintenance and safety of the equipment, the City will need to contract directly with the equipment manufacturer, a former subcontractor, without further bidding, as a measure necessary to preserve or protect the public health or safety.

As the affiant, I am familiar with state and local laws relating to competition and bidding requirements. It is my opinion that the substantial amount of time

required to revise plans and specifications, repackage bid documents, advertise for replacement contractors, award contracts, and execute new contracts, would result in a failure to adequately preserve or protect the public health or safety. My fiduciary responsibilities to the City of Austin require that the purchases of the remaining equipment and services be made as expeditiously as possible in order to protect or preserve the public health or safety of the municipality.”



Jim Smith, Executive Director
City of Austin Aviation Department

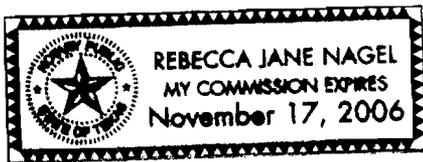
STATE OF TEXAS }
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BEFORE ME, the undersigned notary public, personally appeared Jim Smith, known to me personally or on the basis to legally sufficient identification to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated, and that each and every statement therein is within his knowledge and is true and correct.

Given under my hand and seal of office on the 29th day of August, 2006.



NOTARY PUBLIC, STATE OF TEXAS



Rebecca Jane Nagel
Printed Name of Notary

My Commission Expires: 11/17/2006